IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CIVIL APPLICATION NO.317 OF 2005
IN
APPEAL FROM ORDER NO.295 OF 2005

Madhukar Waman Rikame Appellant

Vs.

Vasant Damu Thete & ors. Respondents

Mr.P.N.Joshi for appellant.
Mr.Nitin Mulye for respondent no.1.
Mr.G.S.Godbole for Resp.Nos.2 to 6.

CORAM: B.H.MARLAPALLE,J.
July 06, 2005.

P.C.

1. Appeal from Order No.295 of 2005 has been admitted by this Court on 12-4-2005 and simultaneously rule was granted in this application. Ad-interim relief in terms of prayer clause (a) was also granted subject to the applicant depositing an amount of Rs.1,19,100/- in the trial Court within a period of two weeks. Admittedly the applicant has complied with the direction to deposit the amount in the trial Court.

2. The only question that is required to be considered is whether there is a case made out by the applicant to make the rule absolute. The learned

counsel for the respondents has placed on record a copy of the document purportedly signed on 28-4-2003 on the basis of which the suit has been filed before the trial Court. This agreement is not an agreement to sell and not even a memorandum of understanding between the parties as it does not mention the consideration amount. Prima facie there is no case to make the rule absolute granted in this application when the main suit itself is based on such type of document.

3. Hence the application is dismissed. Rule discharged. Ad-interim order stands vacated. The applicant is at liberty to apply to the lower Court for withdrawal of the deposited amount.

(B.H.MARLAPALLE,J.)